

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

File No. 1:97-CR-76

v.

HON. ROBERT HOLMES BELL

JUWELL DARNELL CASTLEBERRY,

Defendant.

_____ /

ORDER DENYING MOTIONS FOR RECONSIDERATION
AND FOR ADDITIONAL FINDINGS

On September 13, 2005, this Court entered an opinion and order (Docket ## 518, 519) denying Defendant Juwell Castleberry's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Defendant subsequently filed two motions (1) a motion for reconsideration of the Court's September 13, 2005 opinion and order (Docket #521); and (2) a motion for additional findings (Docket #520). Both motions presently are before the Court.

The Court construes Defendant's motion for reconsideration as a motion filed pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. *See Huff v. Metropolitan Life Ins. Co.*, 675 F.2d 119, 122 (6th Cir.1982). The Court finds that the motion is timely.

As the Sixth Circuit summarized in *GenCorp, Inc. v. Amer. Int'l Underwriters*, 178 F.3d 804, 833-34 (6th Cir. 1999), motions to alter or amend judgment under Rule 59(e) may be granted for the following reasons: (1) clear error of law, (2) newly discovered evidence,

(3) an intervening change in controlling law, or (4) to prevent manifest injustice. To constitute "newly discovered evidence," the evidence must have been previously unavailable. *Id.*

The Court carefully has considered both Defendant's arguments and the conclusions reached in the September 13, 2005 opinion and order and finds no error of law or fact. Defendant has failed to demonstrate any of the possible grounds under Rule 59(e) for altering or amending the Court's September 13, 2005 order. As a consequence, Defendant's motion for reconsideration will be denied.

In addition, contrary to the contentions Defendant sets forth in his motion for additional findings, the Court is persuaded that it fully and completely addressed each of the issues raised in Defendant's § 2255 motion. Further clarification of the opinion and order therefore is not required.

Accordingly,

IT IS ORDERED that Defendant Castleberry's motion for reconsideration (Docket # 521) is **DENIED**.

IT IS FURTHER ORDERED that Defendant Castleberry's motion for additional findings (Docket # 520) is **DENIED**.

Date: October 3, 2005

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE